

TA-MAR LOPEZ, # 12-A-2718
PLAINTIFF,

V.

DETECTIVE STEPHEN MUNAFD SHIELD NO. 4422
DETECTIVE "JOHN DOE" RESARIO
DETECTIVE PETER BOHRINGER SHIELD NO. 4624
DETECTIVE "JOHN DOE" SPAGNUOLO
SERGANT CHRISTOP OWEN TAX REG. NO. 924294
POLICE OFFICER SELINA JONES TAX REG. NO. 915968,
INDIVIDUALLY AND IN THEIR OFFICIAL
CAPACITIES,
DEFENDANTS

15CV7350

COMPLAINT

CIVIL ACTION No. _____

JURY TRIAL DEMANDED

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I. Complaint

Plaintiff TA-MAR LOPEZ, PRO SE, for the complaint states as follows:

II. Parties, Jurisdiction And Venue

- 1) Plaintiff is confined in a State Correctional Institution located at: GREEN HAVEN C.F., BOX 4000, STORMVILLE, N.Y., 12582-4000. DIN # 12-A-2718
- 2) Plaintiff, TA-MAR LOPEZ IS, AND WAS AT ALL TIMES MENTIONED HEREIN, AN ADULT CITIZEN OF THE UNITED STATES AND A RESIDENT OF THE STATE OF NEW YORK.
- 3) DEFENDANT STEPHEN MUNAFD WAS AT ALL RELEVANT TIMES HEREIN A DETECTIVE FOR THE QUEENS NARCOTICS BUREAU. AT: 1 POLICE PLAZA, NEW YORK, N.Y. 10007
- 4) DEFENDANT "JOHN DOE" RESARIO WAS AT ALL RELEVANT TIMES HEREIN A DETECTIVE FOR THE QUEENS NARCOTICS BUREAU. AT: 1 POLICE PLAZA, NEW YORK, N.Y. 10007
- 5) DEFENDANT PETER BOHRINGER WAS AT ALL RELEVANT TIMES HEREIN A DETECTIVE FOR THE QUEENS NARCOTICS BUREAU. AT: 1 POLICE PLAZA, NEW YORK, N.Y. 10007
- 6) DEFENDANT "JOHN DOE" SPAGNUOLO WAS AT ALL RELEVANT TIMES HEREIN A DETECTIVE FOR THE QUEENS NARCOTICS BUREAU AT: 1 POLICE PLAZA, NEW YORK, N.Y. 10007
- 7) DEFENDANT CHRISTOP OWEN WAS AT ALL RELEVANT TIMES HEREIN A SERGANT FOR THE QUEENS NARCOTICS BUREAU. THIS DEFENDANT SUPERVISES THE PRECEEDING NAMED DETECTIVES.

- 8) DEFENDANT ~~SELINAH JONES~~ was at all Relevant times herein A POLICE OFFICER for the Queens Court. At: 125-01 Queens Blvd., Kew Gardens, N.Y. 11415-1568
- 9) This action arises under and is brought pursuant to 42 U.S.C. Section 1983 to remedy the deprivation, under color of State Law, of rights guaranteed by the Fifth, ~~SIXTH~~ Sixth and Fourteenth Amendments to the United States Constitution. The court has jurisdiction over this action pursuant to 28 U.S.C. Sections 1331 and 1343.
- 10) The cause of action arose in the Southern District of New York. Therefore, venue is proper under 28 U.S.C. Section 1391(b).

III. PREVIOUS LAWSUITS

- 11) Plaintiff has filed no other lawsuits dealing with the same facts involved in this action.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

- 12) This claim is for a denial of the right to a fair trial and doesn't involve any prison conditions other than injuries resulting thereof.

V. STATEMENT OF CLAIM

- 13) AT ALL Relevant times herein, defendants were "persons" for purposes of 42 U.S.C. § 1983 and acted under the color of Law to deprive Plaintiff of his Federal rights, as set forth fully below.

VI. STATEMENT OF FACTS

- 14) On January 22nd, 2011 at 5:05 pm, Plaintiff Tamar Lopez, now Plaintiff's Edwards Muckie and Paul Wiggins were arrested by DEFENDANTS DETECTIVE STEPHEN MURATO shield no. 4422, DETECTIVE "John Doe" ROSARIO, DETECTIVE PETER BOHRINGER shield no. 4624, DETECTIVE "John Doe" SPAGNUOLO under the supervision of DEFENDANT CHRISTOP OWEN TAX REG. NO. 924294.
- 15) Murato also informed and provided information ~~to~~ pertinent to the above described arrest to DEFENDANT ~~Police Officer~~ Police Officer SELINAH JONES of the

"Queens Coult" section, tax Reg. no. 915968.

16) On January 22nd, Around 5:00pm, Plaintiff's car pulled over on the corner of 155th and 116th in Queens, N.Y. engine still running.

17) Plaintiff was on his way to his cousin Paul Wiggins house for a short visit having to be to work at 11pm in Manhattan at Penn Station for the Long Island Railroad through FIDCAP/VESID.

18) Plaintiff was accompanied by Edward Muckle who is also a relative.

19) Unbeknownst to Plaintiff, Paul Wiggins left his house and approached Plaintiff's vehicle on foot through the snow to tell Plaintiff that he could no longer park in the driveway because of the snow.

20) While at the vehicle, Paul Wiggins rested both of his arms (in a bent over position) on the edge of Plaintiff's passenger side window door panel and began a conversation with Plaintiff.

21) While Paul Wiggins was at the vehicle, Plaintiff never touched his hands, Paul Wiggins never handed Plaintiff anything, accepted any money from him nor did the Plaintiff ever sell anything to him. There was absolutely no physical contact between the two people mentioned in this paragraph at any time.

22) Within 10 seconds of Paul Wiggins being at the window, an unmarked DARK BLUE VAN pulled over in front of Plaintiff's vehicle "Blocking" its path from moving.

23) On the van's driver side was "STEPHEN MUNITO". On the passenger side was DETECTIVE "ROSARIO".

24) The NYPD officers simultaneously exited the van hurriedly and approached the Plaintiff's "Blocked In" vehicle. Rosario to the driver's side and MUNITO approached Paul Wiggins.

25) Rosario said "Hey, you look kinda funny making movements in the car".

Plaintiff immediately placed his hands on the steering wheel and replied "I'm just here to see my cousin." "What's the problem Officer?"

26) Murato then said "Step out of the car!" "Both of you." In which there was full compliance. Murato was still standing on the sidewalk next to Paul Wiggins who had stepped away from the vehicle once Murato approached him. Plaintiff and Edward Muckle were now next to Paul Wiggins.

27) Plaintiff was immediately cuffed and placed directly facing the trunk of his vehicle by Murato, pat frisked and held by his right arm. At that point, Plaintiff was not told why he was cuffed.

28) Rosario then cuffed Edward Muckle and stood him next to Plaintiff facing the vehicle. Muckle was not told why he was cuffed either.

29) Paul Wiggins was told not to move.

30) Plaintiff is not sure which NYPD used the walkie-talkie to call NYPD to the scene but while Rosario searched the drivers side of the vehicle and Murato searched the passenger side, within 45 seconds to a full minute, "PETER BOHRINGER", "John Joe Spagnuolo" and 2 other NYPD members appeared and parked a unmarked car in the middle of the intersection.

31) Plaintiff never consented to the search of his vehicle.

32) John Joe Spagnuolo pulled Edward Muckle away from Plaintiff towards where the unmarked car was parked and proceeded to go into Muckles underpants where contraband was found. A search of Plaintiff's car also revealed contraband.

33) Plaintiff and Edward Muckle were escorted to the unmarked van where another person had already been arrested and seated.

34) Approximately 1 minute later, Paul Wiggins was brought on to the van in handcuffs as well. Plaintiffs were driven to the 113th Precinct for processing. 11/2/11

35) BOHRINGER filled out a deposed and sworn AFFIDAVIT from informant - now relayed to him by MURATO stating that Plaintiff committed the offenses

- of Penal Law 220.16-1, Criminal Possession of a controlled substance in the 3rd degree; 220.39, Criminal Sale of a controlled substance in the 3rd degree and 220.03 (10/28/10), Criminal Possession of a controlled substance in the 7th degree.
- 36) In sum, the complaint stated that Plaintiff was seen by MUNITO hand-ing Paul Wiggins a "plastic twist" containing "cocaine."
- 37) Also, upon approaching Plaintiff's vehicle, Munito observed ~~Paul Wiggins~~ throw said "twist" back into Plaintiff's vehicle on to the passenger seat area.
- 38) The complaint goes on to say that Munito observed and recovered (1) "plastic twist" containing a quantity of cocaine from the passenger seat area of the Plaintiff's vehicle, (17) plastic twists and (3) plastic bags containing cocaine from the front drivers side floor and \$110 dollars in currency.
- 39) The complaint against Edward Muckle is identical word for word with an additional paragraph stating "DEFENDANT PETER DOTHINGER further states that he is further informed by DETECTIVE MUNITO that he observed and recovered (6) plastic bags each containing a quantity of cocaine from the pants of the defendant" and "\$282.00 dollars from Edward Muckles pockets." SEE EXHIBITS () (in comparison) Muckles paper didn't state a "sale" to Wiggins.
- 40) As explained in PAR. (32) of this STATEMENT OF FACTS, EXHIBITS () is a property clerk invoice identifying "John Doe" SPAGNUOLO as the finder of the property on Edward Muckles person also including EXHIBIT (). (prisoner pedigree sheet on Edward Muckle) The property clerk invoice pg. identifying the (6) plastic bags is entered by Sergeant Christop OWEN.
- 41) Police Officer Selinda Jones filled out a deposed and sworn Affidavit from information relayed to her by Munito stating that Paul Wiggins committed the offense of Penal Law 220.03 (10/28/10) criminal possession of a controlled substance in the 7th degree, identifying the time being 5:05 pm, place as SW intersection of 155th and 116th, DATE February 22nd, 2011 in the county

of Penal Law 220.16-1 "Criminal Possession of a Controlled Substance in the 3rd Degree"; 220.16-1 "Criminal Possession of a Controlled Subst

of Queens that Murato seen Paul Wiggins in possession of (1) "twist" of "crack" cocaine. The Affidavit also explains that Murato recovered (1) twist of "crack" cocaine from the passenger seat of the defendants 2001 Volkswagen. No money was recovered from Paul Wiggins. The Affidavit never mentioned Plaintiff's name as he was the only person responsible for the vehicle on January 22nd, 2011. SEE EXHIBITS ()

42) EXHIBIT () (Queens County District Attorney Intake Bureau Crime Reports) show that on January 23rd, 2011 at 9:35 am, the Queens County District Attorney approved the Affidavit on account of what Murato relayed to BOTHINGER and JONES based on the contrabands found causing the arrest.

43) It is believed that BOTHINGER forwarded the arrest reports and requested information to the Queens District Attorney's Office for processing the Plaintiff's arrest.

44) On January 23rd, 2011, in Court Part APTA 4/3, Plaintiff was arraigned as charged for criminal sale and possession of a controlled substance in the 3rd degree and bail was set at 15,000.00 cash or bond (CASE # 2011 QN003992)

45) On February 8th, 2011, Plaintiff appeared before the judge still incarcerated and got remanded until the next court appearance of March 9th, 2011.

46) On March 3rd, 2011, Plaintiff posted bail in the amount of \$3,000.00 bond and was released from Rikers Island VBC, charges still pending.

47) On March 7th, 2011, Plaintiff found out that his employment was terminated due to the charges pending against him.

48) On March 9th, 2011, Plaintiff appeared for court and was told about a Grand Jury Hearing through counsel and the case was again adjourned.

49) On a day in June, 2011, at the Grand Jury Proceedings, Murato testified that he has been with the Queens Narcotics Bureau for "about seven months."

50) He also testified (Murato) that Plaintiff Tamar Lopez was spotted hands-

ing Paul Wiggins a "small object" contradicting information given to both DEFENDANTS BOTHINGER AND JONES of "twist" of "cocaine" and "twist" of "CRACK COCAINE". MUNITO also testified after blocking Plaintiff's vehicle and exiting the UNMARKED VAN ON FOOT, to the passengers side, Paul Wiggins "threw, dropped something" onto the passenger seat" in which he visibly saw next to EDWARDS MUCKLES leg and that's how the arrest ensued.

51) The Grand Jury returned a 5 count indictment against the Plaintiff under NO. QN10248/11 charging him with Criminal Sale of a Controlled Substance in the 3rd degree (1); Criminal Possession of a Controlled Substance in the 3rd degree (2-3); Criminal Possession of ~~A~~ Controlled Substance in the 4th degree (4) and Criminal Possession of a Controlled Substance in the 5th degree (5) setting a date for Motion Practice and Trial. SEE EXHIBIT () 1st forwarded exhibit

52) Between September and up until November of 2011, Plaintiff made complaints to the Civilian Committee Review Board (CCRB) and Internal Affairs Bureau against DEFENDANTS DETECTIVES, MUNITO, ROFARIO ~~BOOTHINGER~~ AND SPAGNUOLO.

53) Complaints #'s 11-508-78 and 11-12783 were concerning the circumstances of Plaintiff's arrest and reason for the search of his vehicle. The complaints and exhibits showed discrepancies in the arrest paperwork between the DEFENDANTS mentioned, states Plaintiff never made contact with Paul Wiggins and Wiggins was arrested without committing a crime. The complaints were closed and no wrongdoing was found on the part of the NYPD.

54) On December 1st, 2011, Plaintiff was arrested on separate matters and still remained incarcerated. (indictment no. 2426/11)

55) Plaintiff was granted a Map/County Constitutional Hearing in 2012 where DEFENDANT DETECTIVE MUNITO testified that "he never saw Plaintiff TAMAR LOPEZ and Paul Wiggins anything" and he never really saw if Paul Wiggins

"Dropped Anything" into Plaintiff's vehicle. Munato also testifies that the Plaintiff's vehicle was a "light colored 4 door car" (TAN OR WHITE) AND when shown AN allowed exhibit of a complete picture of the actual vehicle, denied that that was in fact the Plaintiff's car which was "grey" in color.

56) Plaintiff, TRA-MTA later called DEFENDANT DETECTIVE PETER BOHRINGER AS A witness who couldn't explain the Affidavit discrepancy explained in paras. (39-40) of this STATEMENT OF FACTS between Munato and Spagnuolo finding contraband and money on Edward Muckles person.

57) Bohringer also confirmed that at the time of Plaintiff's arrest, he owned a 2 door Grey Volkswagen Cabrio as indicated on other arrest paperwork.

58) Plaintiff's lawyer submitted a memorandum of law with respect to the MAPP /Burton v. Herring and Abt Jennifer Tubridy responded and conceded that the Defendant Munato at least had what is known as a "founded suspicion" that criminal activity was afoot at the time Plaintiff was arrested.

59) On or around March 30th, 2012, the Judge denies the suppression Motion and set a trial date for May 17th, 2012.

60) On May 17th, 2012, Plaintiff pled guilty to criminal possession of a weapon in the 2nd degree under indictment no. 2426/11 (in which he still remains incarcerated) and received 7 years determinate with 5 years Post Release Supervision to run concurrent with Criminal Possession of a Controlled Substance in the 3rd degree under indictment no. N10243/11 and received 6 years determinate with 1st years Post Release Supervision and was sentenced on June 1st, 2012.

61) On March 19th, 2014, the Appellate Division 2nd Department reversed Plaintiff's conviction of May 17th, 2012 and dismissed indictment no. N10243/11 which is the basis for this claim being denial of a right to a fair trial. SEE ~~EXHIBIT ()~~ EXHIBIT () 2nd folioated exhibit

62) The Appellate Division found that when DEFENDANTS DETECTIVES MUNATO AND ROSARIO "Blocked" Plaintiff's car from being able to proceed,

Plaintiff was considered "ARRESTED" from that point on which required a "Reasonable Suspicion" that Plaintiff was about to commit, was committing or has committed a crime.

63) From the evening of January 22nd, 2011 to March 19th, 2014 is a total of 1,151 days (3 years and 56 days) that include numerous Court appearances and ultimately incarceration based on false information given to the District Attorney's office by said defendants mentioned in this complaint.

VII PRAYER FOR RELIEF

64) Plaintiff prays for a judgement in his favor and damages in his favor ~~and~~ against all named defendants in this complaint.

65) Plaintiff asks for compensatory damages in the amount of 5 million dollars due to the wrongdoing of the defendants herein mentioned, loss of employment, retirement and wages and even if it is not considerable that Plaintiff would've retired from the Long Island Rail Road, the proper amount of future earnings with that company through FESCO/VEISID and

66) Punitive damages in the amount of \$250,000.00 from each individual defendant due to Mental Segregation, loss of liberty and family ties plus a significant hardship due to Plaintiff being incarcerated. Totalling 6.5 million dollars.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT
Signed this 8th day of September, 2015

~~XXXXXXXXXX~~

x Saman Sefer 12A2718

12-A-2718

GREENHAVEN C.F.

Box 4000

STORMVILLE, N.Y. 12582-4000

I declare under the penalty of perjury that on this 14th day of September, 2015, I am delivering this complaint to Prison Authorities to be mailed to the Pro Se Office of the United States District Court for the Southern District of New York.

x. Famar Lopez 12-A-2718
TA-MKH Lopez SN# 12-A-2718